

United States District Court
EASTERN DISTRICT OF VIRGINIA

UNITED STATES OF AMERICA

v.

CRIMINAL COMPLAINT

JOHN PHILIP WALKER LINDH
 a/k/a "Suleyman al-Faris"
 a/k/a "Abdul Hamid"

CASE NUMBER: *02-57-M*

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. From in or about May 2001 through in or about December 2001, out of the jurisdiction of any particular State and district, defendant(s) did, (Track Statutory Language of Offense)

Unlawfully and knowingly, outside the United States, engage in a conspiracy to kill nationals of the United States, while such nationals were outside the United States

in violation of Title 18 United States Code, Section(s) 2332(b).

I further state that I am a(n) Special Agent, FBI and that this complaint is based on the following facts:
Official Title

See Attached Affidavit

Continued on the attached sheet and made a part hereof:

AUSA's- David N. Kelley, Robert A. Spencer

Sworn to before me and subscribed in my presence,

Yes

No

Anne E. Asbury

Signature of Complainant
 Anne E. Asbury
 Special Agent
 Federal Bureau of Investigation

Date

1/15/02

at

Alexandria, Virginia

City and State

Name & Title

**WELTON CURTIS SEWELL
 UNITED STATES MAGISTRATE JUDGE
 EASTERN DISTRICT OF VIRGINIA**

A TRUE COPY, TESTE:
 CLERK, U.S. DISTRICT COURT

Signature of Judicial Officer

BY

July 10, 2002

DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)
v.) Criminal Number 02-51-M
JOHN PHILIP WALKER LINDH,)
a/k/a "Suleyman al-Faris,")
a/k/a "Abdul Hamid,")
Defendant.)

Affidavit in Support of a Criminal Complaint and an Arrest Warrant

I, Anne E. Asbury, being duly sworn, depose and state:

1. I am a Special Agent with the Federal Bureau of Investigation (FBI), United States Department of Justice, assigned to the Washington Field Office. I have been employed by the FBI as a Special Agent since January 1991. My primary duties are to conduct terrorism related investigations.

2. This affidavit contains information necessary to support probable cause for this application. It is not intended to include every fact or matter observed by me or known by the Government. The information provided is based on my personal knowledge and observations during the course of this investigation, information conveyed to me by other law enforcement and government officials, and my review of records, documents, and other physical evidence obtained during this investigation.

3. This application is submitted in support of a criminal complaint and an arrest warrant charging John Philip Walker Lindh, a/k/a "Suleyman al-Faris," a/k/a "Abdul Hamid."

(“Walker”), a United States citizen, with: (1) engaging in a conspiracy, while outside the United States, to kill nationals of the United States outside of the United States, namely, United States nationals engaged in the ongoing conflict in Afghanistan, in violation of Title 18, United States Code, Section 2332(b); (2) providing, attempting to provide, and conspiring to provide material support and resources to designated foreign terrorist organizations, namely, al-Qaeda and Harakat ul-Mujahideen (“HUM”), in violation of Title 18, United States Code, Sections 2339B and 2; and (3) engaging in prohibited transactions with the Taliban, in violation of Title 31, Code of Federal Regulations, Sections 545.201 and 545.204, Executive Order # 13129, Title 50, United States Code, Sections 1702 and 1705, and Title 18, United States Code, Section 2.

Background

4. From my review of reports and other statements prepared by law enforcement officers, U.S. military personnel, and other government officials, I have learned that, on or about November 25, 2001, Johnny Micheal Spann who was, at the time an employee of the Central Intelligence Agency, and an individual identified herein as “confidential source 1” (“CS-1”), an employee of the United States Government, were conducting interviews at the Qala-i Janghi (“QIJ”) compound near Mazar-e Sharif, Afghanistan, of al-Qaeda, and Taliban forces who had been captured by, or who had surrendered to, Northern Alliance forces in the course of the ongoing conflict in Afghanistan. Among those interviewees was an individual later identified as the defendant, Walker. Shortly after Walker’s interview, prisoners – who numbered several hundred – staged an uprising that took several days to suppress and which resulted in Spann’s violent death. During the course of the uprising, Walker retreated with other detainees to a basement area of the QIJ compound, where he remained for several days before being identified

by military and medical personnel as a United States citizen. Walker has remained in the custody of U.S. military forces since that time.

Walker's Admissions

5. On or about December 9 and 10, 2001, a Special Agent of the FBI interviewed Walker. Before conducting the interview, the Special Agent advised Walker of his Miranda rights. Walker acknowledged that he understood each of those rights, and then waived those rights. The Special Agent also presented Walker with a form on which those rights are set forth and Walker signed below the waiver clause in which he acknowledged that he understood his rights, that he was waiving those rights, and that he agreed to be questioned by the FBI outside the presence of a lawyer.

6. I have since read the Special Agent's report of his interview of Walker. In sum, the report indicates that: (1) Walker, a resident of California, converted to Islam in or about 1997;¹ (2) in 1998 and again in early 2000, Walker traveled to Yemen to study Arabic and Islam; (3) in or about October 2000, Walker traveled from Yemen to Pakistan to continue his studies; (4) in or about May 2001 Walker joined a paramilitary training camp run by the Harakat ul-Mujahideen ("HUM"), in order to fight in Kashmir on behalf of that terrorist organization; (5) in or about June 2001, Walker traveled to Afghanistan to fight with the Taliban; (6) from a Taliban recruiting center in Kabul, Afghanistan, Walker was referred to an Arabic mujahideen group that

¹ According to Walker's father, Walker assumed the name "Suleyman al-Faris" when he converted to Islam.

Walker was told was run by Usama Bin Laden's al-Qaeda terrorist organization;² (7) Walker underwent a seven week terrorist training program at al-Qaeda's al-Farooq training camp; (8) during the course of Walker's training course, Usama Bin Laden visited the al-Farooq camp on several occasions, addressed the trainees, and, on at least one occasion, met personally with Walker in a small group; (9) after training at al-Farooq, Walker was deployed with other al-Qaeda mujahideen to the front line in Takhar; (10) after Walker's position in Takhar was targeted by U.S. air strikes, he and his group retreated to Kunduz; and (11) eventually a withdrawal and surrender was negotiated with Northern Alliance forces and Walker and other members of his al-Qaeda group were transported to Mazar-e-Sharif and ultimately to QIJ.

7. More particularly, and with regard to HUM, the report indicates that Walker stated, in substance that, on or about May 1, 2001, Walker left a school he was attending in Bannau, Pakistan and was escorted by an acquaintance to an HUM propaganda/recruitment office in Peshawar. After a few days at the HUM office, Walker was transported to a training camp north of Islamabad. The camp consisted of a guest house, mosque, office and a building to store the weapons. Before leaving the HUM office, HUM officials told Walker not to admit to anyone that he was American but to say, if asked, that he was from Ireland. Within days of his arrival at the HUM camp, Walker commenced paramilitary training that took some 24 days, and included propaganda speeches, firearms training, and some unspecified "special

² At all relevant times herein, the Secretary of State had designated HUM and al-Qaeda as Foreign Terrorist Organizations pursuant to Section 219 of the Immigration and Nationality Act.

missions" training.³ During the firearms portion of the training, Walker used several different weapons. At the conclusion of his training, HUM officials asked Walker whether he wanted to continue training or go to Afghanistan to fight. Walker further stated that he decided instead of fighting with HUM in Kashmir, he would join the Taliban in Afghanistan.

8. The report further indicates that, according to Walker, HUM arranged for Walker's travel to Afghanistan in or about late May 2001. With a letter of introduction from HUM, Walker reported to the Dar ul-Anan Headquarters of the Mujahideen in Kabul, which was used as a Taliban recruiting center, and told them that he was a Muslim who wanted to go to the front lines to fight. After several interviews – including some by individuals who Walker reports were later killed at QIJ – Walker was told that he would have to go to the Arab group because, among other things, Walker was an American who did not speak the Urdu, Pashtu, or Dari spoken by the other mujahideen groups. During this interview process, Walker was told that the Arab group is Usama Bin Laden's al-Qaeda group and that, because Walker's HUM training was insufficient for their purposes, Walker would have to attend an al-Qaeda training camp for additional and extensive military training. Walker further stated that he knew at the time that Bin Laden and al-Qaeda were "against America and the government of Saudi Arabia," and that al-Qaeda's purpose was to fight Americans.

9. According to Walker, he was accepted to al-Qaeda and sent to a Bin Laden guest house in Kandahar for several days. Thereafter, Walker was transported to the al-Farooq

³ Walker reported that there were approximately 100 trainees at the camp while he was there. Those trainees were broken down into smaller groups of 15 or 20. At least one of his fellow trainees, according to Walker, was killed at the QIJ uprising.

camp, arriving on or about June 1, 2001. Within the first several weeks of his arrival there, in or about early June 2001, Walker learned from one of his instructors that Bin Laden had sent people to the United States to carry out several suicide operations. Walker remained at the camp for the duration of the seven week training course, which included courses in weapons, orienteering, navigation, explosives, and battlefield combat. During the weapons training, Walker used shoulder weapons, pistols, and rocket propelled grenades ("RPG"). During the explosives training, Walker used grenades and constructed Molotov cocktails. Walker reported that Bin Laden visited the camp on three to five occasions and gave lectures on "the local situation, political issues, old Afghan/Soviet battles, etc." On at least one of those occasions, Walker and four other trainees met with Bin Laden for approximately five minutes, during which Bin Laden thanked them for taking part in jihad. Walker also stated that, during his training he was offered several options. The first option was to continue training at al-Farooq or at one of Bin Laden's many other camps in Afghanistan, including at Kandahar, Kabul, Khost, and Jalalabad in courses such as artillery, explosives , poisons, intelligence, and terrorist tactics. Another option offered Walker was to go to the front lines and fight the Northern Alliance. Walker also stated that, during his training at al-Farooq, he met with Abu Mohammad Al-Misri, an Egyptian whom Walker understood to be the general manager of the training camps. Al-Misri asked Walker, as well as other foreigners training at the camp, whether he was interested in traveling outside Afghanistan to conduct operations against the United States and certain Israeli targets.⁴ Walker

⁴ Walker's description of al-Misri is consistent with that provided by confidential sources, at least one of whom is a former member of al-Qaeda who is familiar with the operation of the several training camps run by Bin Laden and al-Qaeda. According to at least one of those sources, al-Misri (which means "the Egyptian") is also known as "Saleh," who is a fugitive under

declined the offer and chose instead to go to the front lines to fight.

10. Walker further stated that, after completing his al-Qaeda training, Walker was issued an AKM rifle and sent to Kabul with approximately 30 other mujahideen. Walker carried the rifle with him while, together with approximately 150 fighters, Walker made his way from Kabul to the front line in Takhar. Walker's group rotated in two week shifts in the Takhar trenches defending against Northern Alliance attacks. During this time, Walker's AKM rifle malfunctioned, and he was reissued a new rifle and he carried that as well as two grenades along the front line. Walker also stated that, on September 11 or 12, he learned about the terrorist attacks in Washington and New York by radio. According to Walker, it was his and his comrades' understanding at the time that Bin Laden had ordered the attacks and that additional attacks would follow.

11. Walker also stated that, after the September 11 attacks, all of the Bin Laden training camps were closed and the people in those camps were sent to the front lines to protect Bin Laden and to defend against what they anticipated would be attacks from the United States. Walker further stated that he remained with his fighting group until their position in Takhar was bombed by the U.S. Thereafter, according to Walker, he and his group retreated to Kunduz. Eventually, a withdrawal was negotiated with General Dostum of the Northern Alliance, as part of which Walker and other fighters surrendered their arms and were trucked to Mazar-e Sharif, and ultimately to QIJ. Walker further stated that he was eventually interviewed by two Americans (*i.e.*, Spann and CS-1) to whom, according to Walker, he identified himself as a

indictment in the United States District Court for the Southern District of New York for his participation in the 1998 bombings of the United States embassies in East Africa .

Pakistani. Walker stated that, after the interview, he was moved to a lawn where others whose interrogations had been completed had also been moved. Shortly thereafter, Walker heard shots and screaming from the basement. Walker further stated that, upon hearing this, Walker got up and tried to run, but was shot in the leg and collapsed in the yard. Walker stated that he remained lying in the yard until he was brought to the basement by his comrades. Walker claims not to have seen what happened to the two Americans who had interviewed him.

12. Walker further stated that ultimately a surrender was arranged and Red Cross workers took the sick and wounded to hospitals near Mazar-e-Sharif. Walker stated that, while in transit, he discussed his situation with a CNN reporter. Walker also stated that he has been treated well by the military, and has received adequate food and medical treatment while in their custody.

The CNN Interview

13. As set forth above, Walker stated that he was interviewed by CNN while en route to Mazar-e-Sharif after the QIJ uprising. I have reviewed the broadcasts and transcripts of the interview as well as reports of Walker's statements that were also broadcast. The relevant portions are set forth below and substantially corroborate Walker's statements to the FBI.⁵

In a tape of Walker's interview, which aired on CNN on December 2, 2001, he stated:

I was a student in Pakistan studying Islam. And I came into contact with many people who were connected with Taliban. I lived in the region of the northwest frontier province there. The people there in general have a great love for the Taliban. So, I started to read some of the literature of the

⁵ The following accounts are drawn from preliminary transcripts of CNN broadcasts.

scholars and the history of the movement, and my heart became attached to them.

* * * * *

When we withdrew from Takhar, we walked by foot maybe more than 100 miles. Afterward, I was very sick for the whole period.

In the same broadcast, the correspondent who conducted the interview, went on to say that Walker had said he:

- ▶ is a member of Ansar, who are the Arabic-speaking fighters who are funded and supported by Bin Laden;
- ▶ went to Afghanistan six months ago from Yemen where he was studying Arabic;
- ▶ went to Kabul to join the Taliban, but because he could not speak Pashtu, they sent him to Arabic speaking camps run by Bin Laden;
- ▶ had attended several training camps;
- ▶ was trained in the use of a Kalashnikov rifle and was sent to Kashmir to fight;
- ▶ saw Bin Laden several times at the training camps and when Bin Laden visited the troops on the front lines; and
- ▶ began his jihad on the front lines north of Kabul, and later was sent to fight in the province of Takhar right before the war began.⁶

The QIJ Uprising

14. Based upon preliminary reports of U.S. military and other personnel, as well as upon media accounts, I understand that, among other things, the following transpired at QIJ in or about the end of November 2001:

⁶ In additional footage of the same interview, Walker indicated that he had adopted the name "Abdul Hamid."

- ▶ On or about November 25, 2001 Spann and CS-1 were conducting interviews of detainees at QIJ;
- ▶ Spann took photographs of those individuals who he interviewed, and a photograph of Walker has been recovered from amongst those photographs;
- ▶ Some time after Walker was interviewed, a mass of prisoners converged upon Spann, and CS-1 fired upon those prisoners;
- ▶ Ultimately, the prisoners killed Spann;
- ▶ Several prisoners, including Walker, who had been shot in the leg during the melee, retreated to the basement of the compound where they remained for several days; and
- ▶ Medical workers and other individuals who had contact with Walker identified him as an American citizen and notified U.S. military personnel, who took Walker into custody.

15. I also understand that a photographer was present in QIJ on or about November 25, 2001, and that portions of several of Spann's interviews that day, including that of Walker, was filmed. I have reviewed several portions of that footage, which has been broadcast and published in various media. Among other things, the footage shows Spann interviewing Walker. Among the many questions Spann asked Walker was his name, where he was from, how he got to QIJ, and how he was recruited. Walker did not answer any of Spann's questions.

Conclusion

16. Based on the foregoing, I have probable cause to believe that: (i) from in or about May 2001 through in or about December 2001, John Philip Lindh, a/k/a "Suleyman al-Faris," a/k/a "Abdul Hamid," the defendant, while outside the United States, engaged in a conspiracy to kill nationals of the United States outside of the United States, namely, United States nationals engaged in the ongoing conflict in Afghanistan, in violation of

Title 18, United States Code, Section 2332(b); (ii) from in or about March 2001 through in or about May 2001, John Philip Walker Lindh, a/k/a "Suleyman al-Faris," a/k/a "Abdul Hamid," the defendant, subject to the jurisdiction of the United States, but outside of the jurisdiction of any particular state or district, unlawfully, willfully, and knowingly, provided material support and resources, as that term is defined in 18 U.S.C. § 2339A(b), to a foreign terrorist organization, namely, Harakat ul-Mujahideen ("HUM"), and attempted and conspired to do so, in violation of Title 18, United States Code, Sections 2339B and 2; (iii) from in or about May 2001, through in or about December 2001, John Philip Walker Lindh, a/k/a "Suleyman al-Faris," a/k/a "Abdul Hamid," the defendant, subject to the jurisdiction of the United States, but outside of the jurisdiction of any particular state or district, unlawfully, willfully, and knowingly, provided material support and resources, as that term is defined in 18 U.S.C. § 2339A(b), to a foreign terrorist organization, namely, al Qaeda, and attempted and conspired to do so, in violation of Title 18, United States Code, Sections 2339B and 2; and (iv) from in or about May 2001, through in or about December 2001, outside of the jurisdiction of any particular state or district, John Philip Walker Lindh, a/k/a "Suleyman al-Faris," a/k/a "Abdul Hamid," the defendant, being a United States person, subject to the jurisdiction of the United States, willfully, and knowingly contributed goods and services to, and for the benefit of, the Taliban, and supplied directly and indirectly goods and services to the territory of Afghanistan controlled by the Taliban and to the Taliban and to persons whose property and interests in property are blocked pursuant to 31 C.F.R.

§545.201, in violation of Title 31, Code of Federal Regulations, Sections 545.201 and 545.204, Executive Order # 13129, Title 50, United States Code, Sections 1702 and 1705, and Title 18, United States Code, Section 2.

Anne E. Asbury

Anne E. Asbury
Special Agent
Federal Bureau of Investigation
United States Department of Justice

Sworn to and subscribed to before me
on January 15, 2002

W. Bruce
United States Magistrate Judge

A TRUE COPY, TESTE:
CLERK, U.S. DISTRICT COURT
BY Cathy Dooly
DEPUTY CLERK